

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

NICHOLAS DANIEL BURSHIA,

Defendant.

CR 17-28-GF-BMM-JTJ

FINDINGS AND
RECOMMENDATIONS

I. Synopsis

Defendant NICHOLAS DANIEL BURSHIA (Burshia) has been accused of violating the conditions of his supervised release. (Doc. 73) Burshia admitted the violations. Burshia's supervised release should be revoked. Burshia should be sentenced to custody for 16 months, with no term of supervised release to follow. The Court recommends that Burshia serve his custodial sentence at the Federal Correctional Institute in Englewood, Colorado.

II. Status

Burshia plead guilty on September 13, 2017, to the offense of Abusive Sexual Contact, in violation of Title 18 U.S.C. §§ 2244(a)(5), 1153(a) as charged in Count 2 of the Indictment. (Doc. 24) Burshia was sentenced to 69 months of custody with 5 years of supervised release to follow. (Doc. 34) Burshia's current term of supervised release began on July 2, 2024.

Petition

On August 8, 2024, the United States Probation Office filed a Petition requesting that the Court revoke Burshia's supervised release. (Doc. 73) The Petition alleged Burshia violated conditions of his supervised release by: (1) failing to reside at his approved since July 31, 2024; (2) failing to show for his outpatient sexual treatment session on August 6, 2024; (3) failing to submit to random urinalysis testing on August 6, 2024; and (4) failing to check in with his probation officer as instructed on August 6, 2024 and failing to report between August 6, 2024 until his arrest on December 3, 2024.

Initial Appearance

Burshia appeared before the Court on December 6, 2024. Burshia was represented by counsel. Burshia stated that he had read the Petition and that he understood the allegations against him. Burshia waived his right to a preliminary

hearing. The parties consented to proceed with the revocation hearing before the undersigned.

Revocation Hearing

Burshia appeared before the Court on December 6, 2024. Burshia admitted that he had violated the conditions of supervised release as set forth in the Petition by: (1) failing to reside at his approved residence as of July 31, 2024; (2) failing to show for his outpatient sexual offender treatment session on August 6, 2024; (3) failing to submit to random urinalysis testing on August 6, 2024; and (4) failing to check in with his probation officer as instructed on August 6, 2024 and failing to report between August 6, 2024 until his arrest on December 3, 2024. Burshia's violations are serious and warrant revocation of his supervised release.

Sentencing hearing

Burshia appeared before the Court on December 6, 2024. Burshia's violation is a Grade C. His criminal history category is I. Burshia's underlying offense is a Class A felony. Burshia could be incarcerated for up to 60 months. Burshia could be ordered to remain on supervised release for up to 45 months less any custody time imposed. The United States Sentencing Guidelines call for a term of custody of 3 to 9 months.

III. Analysis

Burshia's supervised release should be revoked. Burshia should be sentenced to custody for 16 months, with no term of supervised release to follow. The Court recommends that Burshia serve his custodial sentence at the Federal Correctional Institute in Englewood, Colorado.

IV. Conclusion

The Court informed Burshia that the above sentence would be recommended to the Chief United States District Judge Brian Morris. The Court also informed Burshia of his right to object to these Findings and Recommendations within 14 days of this issuance. The Court explained to Burshia that Judge Morris would consider a timely objection before making a final determination on whether to revoke his supervised release and what, if any, sanction to impose.

The Court **FINDS**:

That NICHOLAS DANIEL BURSHIA has violated the conditions of his supervised release by (1) failing to reside at his approved residence since July 31, 2024; (2) failing to show for his outpatient sexual offender treatment session on August 6, 2024; (3) failing to submit to random urinalysis testing on August 6, 2024; and (4) failing to check in with his probation officer as instructed on August 6, 2024 and failing to report between August 6, 2004 until his arrest on December 3, 2024.

The Court **RECOMMENDS**:

That the District Court revoke Burshia's supervised release and sentence Burshia to custody for 16 months, with no term of supervised release to follow. The Court recommends that Burshia serve his

custodial sentence at the Federal Correctional Institute in Englewood, Colorado.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO
OBJECT**

The parties may serve and file a written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. Section 636(b)(1). A United States district court judge will make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made. The district court judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district court judge and may waive the right to appear and allocute before a district court judge.

DATED this 9th day of December 2024.



John Johnston
United States Magistrate Judge